

1967 No. 1809 (L. 15)

**SUPREME COURT OF JUDICATURE, ENGLAND
PROCEDURE**
The Rules of the Supreme Court (Amendment No. 2) 1967

Made - - - 4th December 1967

Laid before Parliament 15th December 1967

Coming into Operation 1st January 1968

We, the Rule Committee of the Supreme Court, being the authority having for the time being power under section 99(4) of the Supreme Court of Judicature (Consolidation) Act 1925(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature, hereby exercise those powers and all other powers enabling us in that behalf as follows:—

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Amendment No. 2) 1967 and shall come into operation on 1st January 1968.

(2) In these Rules an Order referred to by number means the Order so numbered in the Rules of the Supreme Court 1965(b), as amended (c).

(3) The Interpretation Act 1889(d) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

2. In the Arrangement of Orders at the beginning of the Rules of the Supreme Court 1965 the title of Order 95 shall be amended by adding after “1882” the words “and the Industrial and Provident Societies Act 1967”.

3. In Order 11, rule 1(1) (i), after “1962” there shall be inserted the words “the Carriage of Goods by Road Act 1965(e)”.

4. Order 50 shall be amended as follows:—

(1) Paragraph (4) of rule 1 shall be omitted and paragraphs (5) to (8) of that rule shall be re-numbered accordingly.

(2) The following rule shall be substituted for rule 9:—

“Jurisdiction of Master, etc. to grant injunction or appoint receiver to enforce charge

9. Subject, in the Chancery Division, to any directions given by the judges of that Division under Order 32, rule 14, a master and a registrar of the Probate, Divorce and Admiralty Division shall have power—

(a) to appoint a receiver to enforce a charge imposed by an order under rule 1, or

(b) to grant an injunction if, and only so far as, it is ancillary or incidental to an order under rule 1, 2 or 8,

(a) 1925 c. 49.

(b) S.I. 1965/1776 (1965 III, p. 4995).

(c) The relevant amending instrument is S.I. 1967/829 (1967 II, p. 2476).

(d) 1889 c. 63.

(e) 1965 c. 37.

and an application for the appointment of a receiver or an injunction under this rule may be joined with the application for the order under rule 1, 2 or 8 to which it relates.”

5. Order 79, rule 9, shall be amended as follows:—

(1) For paragraph (1) there shall be substituted the following paragraph:—

“(1) Subject to the provisions of this rule, every application to the High Court in respect of bail in any criminal proceeding—

(a) where the defendant is in custody, must be made by summons before a judge in chambers to show cause why the defendant should not be admitted to bail;

(b) where the defendant has been admitted to bail, must be made by summons before a judge in chambers to show cause why the variation in the arrangements for bail proposed by the defendant should not be made.”.

(2) In paragraph (2) after the words “Form No. 97” there shall be inserted the words “or 97A”.

(3) In paragraph (6) for the words from the beginning of the paragraph to “is heard” there shall be substituted the following words:—

“Without prejudice to section 37(3) of the Criminal Justice Act 1948(a) and section 22(3) of the Criminal Justice Act 1967(b) (which make provision as to the persons who may take recognizances where bail is granted by the High Court under those sections), the judge in chambers by whom an application for bail in criminal proceedings (other than an application made under the said section 37 or 22) is heard”.

(4) The following paragraph shall be inserted after paragraph (9)—

“(10) An order by the judge in chambers varying the arrangements under which the defendant has been released on bail shall be in Form 98A in Appendix A and a copy of the order shall be transmitted forthwith—

(a) in the case of a committal for trial, to the clerk of the court to which the defendant stands committed;

(b) in any other case, to the clerk of the court which committed the defendant.”

(5) Paragraphs (10) and (11) shall stand as paragraphs (11) and (12) respectively.

6. The following rule shall be added at the end of Order 89:—

“Proceedings relating to rights of occupation

3.—(1) The jurisdiction of the High Court under section 1 of the Matrimonial Homes Act 1967(c) may be exercised in chambers and paragraphs (1), (3) and (4) of rule 1 shall apply to proceedings under that section as they apply to proceedings under section 17 of the Married Women’s Property Act 1882.

(2) Where the plaintiff asks for an order terminating the defendant’s rights of occupation and it appears to the Court, on the ex parte application of the plaintiff, that the defendant is not in occupation of the dwelling house to which the application relates and his whereabouts cannot after reasonable inquiries be ascertained, the Court may dispense with service of the originating summons on him.”

(a) 1948 c. 58.
(c) 1967 c. 75.

(b) 1967 c. 80.

7. Order 94, rule 2, shall be amended as follows:—

- (1) At the end of paragraph (2) there shall be added the following subparagraph:—

“(f) if the application relates to a compulsory purchase order authorised by a Minister under section 7 of the Land Commission Act 1967(a), on the Land Commission.”

- (2) In paragraph (3) after the word “made” there shall be inserted the word “authorised”.

8. Order 95 shall be amended as follows:—

- (1) In the title after “1882” there shall be added the words “AND THE INDUSTRIAL AND PROVIDENT SOCIETIES ACT 1967”.

- (2) The following rule shall be added at the end:—

“*Application under section 1(5) of the Industrial and Provident Societies Act 1967*

5. Every application to the Court under section 1(5) of the Industrial and Provident Societies Act 1967(b) for an order—

- (a) that the period for making an application for recording a charge be extended, or
 (b) that any omission from or mis-statement in such an application be rectified,

must be made to a Master of the Queen’s Bench Division ex parte by affidavit setting out particulars of the charge and of the omission or mis-statement in question and stating the grounds of the application.”

9. In Order 111, rule 3, for the words “rule 10(5)” there shall be substituted the words “rule 10(4)”.

10. Appendix A to the Rules of the Supreme Court 1965 shall be amended as follows:—

- (1) In Form 63 for the words following “We command you” there shall be substituted the words “[
- remainder as in No. 53 omitting the footnote.*
-]”

- (2) The following form shall be inserted after Form 97:—

“97A

Summons to vary arrangements as to bail in a criminal proceeding

(O. 79. r. 9.)

In the High Court of Justice,
 Queen’s Bench Division.

Let all parties concerned attend the judge in chambers on the
 day of 19 at o’clock
 on the hearing of an application on behalf of A.B. that the terms on which he
 was admitted to bail by the on should
 be varied as follows—

Terms on which applicant was admitted to bail—

Proposed variation—

Dated the day of 19 .
 This summons was taken out by of
 [agent for of
]solicitor for the said A.B.”

3. The following form shall be inserted after Form 98:—

"98A

Order varying arrangements for bail
(O. 79. r. 9)In the High Court of Justice,
Queen's Bench Division.

The Honourable Mr. Justice

Judge in chambers.

Whereas on the _____ day of _____ 19 ____ A.B. [state the circumstances in which the applicant was committed as, for example, was committed in custody by a magistrates' court sitting at _____ to the next quarter sessions for the county of _____ to take his trial on a charge of _____ or was convicted by a magistrates' court sitting at _____ of _____ and sentenced to _____ and the said A.B. has given notice of appeal to quarter sessions against such conviction or sentence]:

And whereas the said A.B. was admitted to bail in the sum of _____ with [two] sureties in the sum of _____ on the condition[s] that he _____ :

And whereas the said A.B. has applied to the judge in chambers for a variation of the said arrangements for bail:

Upon hearing counsel [or the solicitor] for the said A.B. and upon reading the affidavit of _____ etc., filed the day of _____ 19 ____ :

It is ordered that the said arrangements for bail be varied as follows—

Dated the _____ day of _____ 19 ____ ."

Dated 4th December 1967.

Gardiner. C.
Parker of Waddington, C.J.
Cyril Salmon, L.J.
Geoffrey Cross, J.
Fenton Atkinson, J.

Eustace Roskill, J.
Robin Dunn
N. Browne-Wilkinson
Arthur J. Driver

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the Rules of the Supreme Court 1965 and come into operation on 1st January 1968. Rules 5 and 10(2) and (3) make provision for a case in which a person who has been admitted to bail applies to the High Court under section 22 of the Criminal Justice Act 1967 for the variation of any conditions on which he was admitted to bail or for the reduction of the amount in which he or any surety is bound or for the discharge of any surety. Rule 6 enables an application relating to a spouse's rights of occupation under the Matrimonial Homes Act 1967 to be dealt with in chambers and gives the court power to dispense with service in an appropriate case. Rules 2, 3, 7 and 8 regulate proceedings under other recent Acts. Rule 4 enables a Master or a Registrar of the Probate, Divorce and Admiralty Division to appoint a receiver to enforce a charge on land under section 35 of the Administration of Justice Act 1956. Rules 9 and 10(1) correct two minor mistakes in the principal rules.